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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (571) 273-8300), on April 17, 2008.

Tony D.E. Pierce
Attorney for Applicant

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PATENT
Docket No. 3423-2-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Ted Marchildon	}
Serial No.:	10/535,225	
Filed:	May 16, 2005	
For:	PLANT GROWING APPARATUS	

Art Unit:
3643

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

Pursuant to 37 C.F.R. § 1.137(b), Applicant hereby petitions to revive the above-identified U.S. patent application, which became unintentionally abandoned on July 3, 2006 for failure to respond to the Notification of Insufficient Fees (DO/EO/US) mailed January 3, 2006 (a copy of which is attached hereto as Exhibit A), as set forth in the official Notice of Abandonment mailed February 14, 2008 (a copy of which is attached hereto as Exhibit B). Enclosed is Form PTO-2038

04/18/2008 HMAR12 00000009 10535225

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770.00 0P

authorizing credit card payment in the amount of \$770.00, as set forth in 37 C.F.R. § 1.17(m), for filing this Petition under 37 C.F.R. § 1.137(b) to revive an unintentionally abandoned application.

The above-identified patent application became abandoned unintentionally. An official Filing Receipt (a copy of which is attached hereto as Exhibit C) was mailed by the U.S. Patent and Trademark Office on January 3, 2006 and was received in our office on January 5, 2006. The Notification of Insufficient Fees (DO/EO/US) mailed by the U.S. Patent and Trademark Office on January 3, 2006, was never received and, accordingly, was not reviewed nor responded to. It appears from the record that both the Filing Receipt and the Notification of Insufficient Fees were mailed to the correct mailing address of Applicant's attorney on January 3, 2006, but apparently these two official communications were not mailed together in the same envelope. Moreover, upon review of the electronic records of the above-identified application as maintained by the U.S. Patent and Trademark Office in Public Pair, the official Filing Receipt received by Applicant is not presently shown as having been mailed by the U.S. Patent and Trademark Office on January 3, 2006.

Although the Notification of Insufficient Fees (DO/EO/US) explained that additional claim fees were due, the official Filing Receipt confirmed a total of nineteen (19) claims and three (3) independent claims, which is consistent with the filing and claim fees originally paid by Applicant upon filing of the above-identified application.

The entire delay in filing this Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b) as calculated from the mailing date of the Notification of Abandonment (e.g., February 14, 2008) was unintentional as Applicant and his attorneys were unaware of any unanswered official communication from the U.S. Patent and Trademark Office. If any obstacle to revival of this case remains, Applicant hereby requests immediate notification thereof. Moreover, a Preliminary Amendment is being filed concurrently herewith in response to the official Notification of Insufficient Fees relative to removal of the multiple claim dependencies.

In view of the foregoing, Applicant respectfully requests that this Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b) be granted.

DATED this 17th day of April, 2008.

Respectfully submitted,



Gary D.E. Pierce
Attorney for Applicant
Reg. No. 38,019

Date: April 17, 2008

PATE PIERCE & BAIRD
175 South Main Street, Suite 1250
Salt Lake City, Utah 84111
Telephone: (801)530-0330

EXHIBIT A

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/535,225	Ted Marchildon	34232.1
		INTERNATIONAL APPLICATION NO.
		PCT/CA03/01789
I.A. FILING DATE		PRIORITY DATE
11/19/2003		11/19/2002
CONFIRMATION NO. 9397		
371 FORMALITIES LETTER		
OC000000017718354		

Date Mailed: 01/03/2006

Notification of Insufficient Fees (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 05/16/2005
- Copy of the International Search Report filed on 05/16/2005
- Copy of Annexes to the IPER filed on 05/16/2005
- Preliminary Amendments filed on 05/16/2005
- Information Disclosure Statements filed on 05/16/2005
- Oath or Declaration filed on 05/16/2005
- U.S. Basic National Fees filed on 05/16/2005
- Assignment filed on 05/16/2005
- Priority Documents filed on 05/16/2005
- Specification filed on 05/16/2005
- Claims filed on 05/16/2005
- Abstracts filed on 05/16/2005
- Drawings filed on 05/16/2005

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of \$555 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$555 for a Small Entity:

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Additionally the following defects have been observed:

- Preliminary Amendments have not been entered because The transmittal letter indicates that a Preliminary Amendment was submitted, however, it was not present at the time of this formalities review..
- Total additional claim fee(s) for this application is \$ 555
 - \$375 for 15 total claims over 20.
 - \$180 for multiple dependent claim surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice MUST be returned with the response.

KAREN R MCLEAN

Telephone: (703) 308-9140 EXT 214

PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/535,225	PCT/CA03/01789	34232.1

FORM PCT/DO/EO/923 (371 Formalities Notice)

EXHIBIT B

04/17/2008 15:42 FAX 8015305955
02/18/08 16:57 FAX 604 681 4081

PATE PIERCE BAIRD
OYEN WIGGS ET AL

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Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/535,225	Ted Marchildon	34232.1

Gary D. E. Pierce
Pate Pierce & Baird
Suite 550
215 South Main Street
Salt Lake City, UT 84111

INTERNATIONAL APPLICATION NO.

PCT/CA03/01789

I.A. FILING DATE	PRIORITY DATE
11/19/2003	11/19/2002

CONFIRMATION NO. 9397
371 ABANDONMENT/TERMINATION
LETTER



OC000000028296793

Date Mailed: 02/14/2008

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 01/03/2006 within the time period set therein.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

TERRY M JOHNSON VESSELS

Telephone: (703) 308-9140 EXT 221

page 1 of 1

FORM PCT/DO/EO/905 (371 Abandonment Notice)

EXHIBIT C

APR 17 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPL NO.	FILING OR 371 (C) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/535,225	05/16/2005	3643	450	34232.1	8	19	3

CONFIRMATION NO. 9397

Gary D. E. Pierce
 Pate Pierce & Baird
 Suite 550
 215 South Main Street
 Salt Lake City, UT 84111

FILING RECEIPT



OC000000017718353

Date Mailed: 01/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Ted Marchildon, Vancouver, BC, CANADA;

Power of Attorney:

Gary Pierce-38019

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/CA03/01789 11/19/2003

Foreign Applications

CANADA 2,412,073 11/19/2002

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Plant growing apparatus

Preliminary Class

047

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

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NOT GRANTED

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